

FEDERAL ELECTION COMMISSION  
999 E Street, N.W.  
Washington, D.C. 20463

RECEIVED  
FEDERAL ELECTION COMMISSION  
NOV 16 2001  
2001 NOV 16 P 4:20

In the Matter of )

Schweitzer for US Senate and )  
Linda M. Nielsen, as Treasurer )

MUR 5012

**SENSITIVE**

GENERAL COUNSEL'S REPORT #2

I. ACTIONS RECOMMENDED

Take no further action against Schweitzer for US Senate ("Committee") and Linda M. Nielsen, as Treasurer, and close the file.

II. BACKGROUND

This matter was generated by a complaint filed by Charles J. Lorentzen alleging that Schweitzer for US Senate and Linda M. Nielsen, as Treasurer, violated 2 U.S.C. § 441d(a) in connection with signs the Committee had erected that expressly advocated the election of Brian Schweitzer and lacked disclaimers. In their response to the complaint, respondents assert that two of the three signs at issue indicate that they are paid for by the Schweitzer Committee and that the appropriate disclaimer was added to the third sign.

On November 14, 2000, the Commission found reason to believe that Schweitzer for US Senate and Linda M. Nielsen, as Treasurer, violated 2 U.S.C. § 441d(a). On the same date, the Commission voted to enter into pre-probable cause conciliation with respondents and approved a conciliation agreement. In response to the Commission's reason to believe finding and offer to enter into conciliation, respondents submitted additional information that is discussed in Section III of this Report. Respondents' submission closes with a request that the Commission dismiss the complaint.

6255-504-40-22

1 **III. SUBMISSION OF ADDITIONAL INFORMATION/REQUEST TO DISMISS**  
2 **COMPLAINT**  
3

4 Respondents argue that the complainant is simply incorrect when he asserts that the yard  
5 signs in question failed to include a disclaimer. See Submission of Additional Information,  
6 Pages 1-2. According to respondents, a "US SENATE" placard was affixed to all of the yard  
7 signs in question as a matter of course and in two of the three photographs submitted with the  
8 complaint, "these placards are clearly affixed to the signs in question."<sup>1</sup> *Id.* at 1. Respondents  
9 state that each placard contains a conspicuous disclaimer, "Paid for by Schweitzer for U.S.  
10 Senate, P.O. Box 4814, Whitefish, MT 59937." Respondents include a "US SENATE" placard  
11 with their submission. *Id.*

12 Respondents also submit a statement from the candidate Brian Schweitzer, made under  
13 penalty of perjury, in which he asserts that he was responsible for the erection of yard signs on  
14 his property<sup>2</sup> and generally oversaw the production of Schweitzer for US Senate campaign  
15 materials.<sup>3</sup> *Id.* at 3. Mr. Schweitzer states that per his instructions, all campaign materials that  
16 were paid for by his Committee included a disclaimer stating that the materials had been paid for  
17 by the Committee. *Id.* According to Mr. Schweitzer, his Committee satisfied the disclaimer  
18 requirement for the signs by affixing a bright red US Senate placard to the signs that included the

<sup>1</sup> Respondents conclude that there are only three signs/locations at issue, the three for which the complainant provided photographs. This Office notes, however, that the complainant lists eight locations where he observed Schweitzer signs. This Office believes that the additional investigation required to determine whether the signs located in the other five locations were identical to the three signs in the photographs would not be an efficient use of the Commission's limited resources.

<sup>2</sup> According to respondents, two of the three photographs attached to the complaint depict yard signs that were erected on Brian Schweitzer's property.

<sup>3</sup> Although respondents refer to Mr. Schweitzer's statement as an affidavit, it is a statement made under penalty of perjury. In order to be considered an affidavit under Montana's legal requirements, it would need to be subscribed, sworn to, and notarized.

22-04-405-3380

1 disclaimer, "Paid for by Schweitzer for U.S. Senate, P.O. Box 4814, Whitefish, MT 59937." *Id.*  
2 Mr. Schweitzer asserts that at no time did respondents erect a sign without including "either a  
3 pre-printed disclaimer or the red placard referenced." *Id.*

4 Respondents argue that the complainant has documented only one instance of a  
5 Schweitzer for US Senate sign that lacked a disclaimer and that the absence of the "US  
6 SENATE" placard in that instance is an anomaly. *Id.* at 2. Respondents indicate that it is  
7 unknown whether the placard on this sign was removed or fell off. *Id.* According to  
8 Mr. Schweitzer, when it came to his attention that one of the signs along Highway 87 no longer  
9 had the "US SENATE" placard containing the disclaimer, he immediately had the  
10 placard/disclaimer replaced. *Id.* at 3.

11 The additional information and "US SENATE" placard/disclaimer provided by the  
12 respondents and the photographs provided by the complainant support respondents' assertion that  
13 two of the three signs in the photographs had disclaimers. Additionally, Mr. Schweitzer's  
14 statement supports the assertion that respondents took immediate corrective action to replace the  
15 placard that was discovered missing from the third sign. In light of the "US SENATE"  
16 placard/disclaimer provided and corrective action taken, this Office believes that further  
17 investigation and pursuit of this matter would not be an efficient use of the Commission's limited  
18 resources. Consequently, this Office recommends that the Commission take no further action  
19 against Schweitzer for US Senate and Linda M. Nielsen, as Treasurer, and close the file.

20 **IV. RECOMMENDATIONS**

- 21  
22 1. Take no further action against Schweitzer for US Senate and Linda M.  
23 Nielsen, as Treasurer.  
24  
25 2. Approve the appropriate letter.  
26  
27

2025.04.40.22

3. Close the file.

Lawrence H. Norton  
General Counsel

Date

11/15/01

BY:

*Rhonda J. Vosdigh*  
Rhonda J. Vosdigh  
Acting Associate General Counsel

Attachment

Submission of Additional Information/Request to Dismiss Complaint

Staff Assigned: Mary Taksar

22.04.405.3382